

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DOUG BAILLIE,	:	Case No. 1:02cv00062-SAS
	:	J. Spiegel
Plaintiff,	:	
	:	
v.	:	
	:	
CHUBB & SON INSURANCE,	:	PLAINTIFF'S SUR-REPLY BRIEF
	:	IN OPPOSITION TO DEFENDANT'S
	:	MOTION FOR SUMMARY
Defendant.	:	<u>SUMMARY JUDGMENT</u>

In its reply brief in support of its motion for summary judgment, Defendant asserts that Mr. Baillie's "claim for punitive damages and any claim for damages resulting from his voluntary election not to exercise stock options" must be dismissed, as according to Defendant, Mr. Baillie "fails to even address Chubb's argument and evidence regarding punitive damages and unexercised stock option." (Def. Rep. Supp. Def. M.S.J..) Plaintiff cannot readily discern to which "claims" Defendant refers. Nonetheless, Plaintiff rejects any assertion that he has surrendered any claim by limiting his response to those legal issues before this Court on Defendant's motion for summary judgment.

Plaintiff fully intends to address the punitive damages and stock options owed to him when liability is established and damages calculated. Whether Defendant owes Mr. Baillie compensatory and punitive damages and the amount of those damages "is not a dispositive question, but is a determination to be made in a damages calculation if and when liability is determined." Southerland v. Sycamore Community Sch. Dist., No. C-1-02-162, Order of J. Spiegel at 23 (July 03, 2003) (attached as "Plaintiff's Exhibit A"). Plaintiff respectfully reserves further argument on these matters to the appropriate time for their determination, subsequent to determination of Defendant's liability.

Plaintiff respectfully requests that this Court deny Defendant's motion for summary

judgment for the above reasons.

Respectfully submitted,

/s/ Randolph H. Freking
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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2003, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed via U.S. mail to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Randolph H. Freking